

1 submission of requests for a public hearing on the EA within 30 days after the date
2 of publication of the notice. The notice shall include a description of the procedure
3 for requesting a public hearing.

4 **SECTION 205.** Trans 400.11 (7) of the administrative code is renumbered Trans
5 400.11 (7) (a) and amended to read:

6 Trans 400.11 (7) (a) The ER shall upon request be made available for inspection
7 at the department's central office, the appropriate department region office, and the
8 office of the local unit of government having requested the proposed action. ~~A~~
9 Subject to par. (b), a notice of availability shall not be required for an ER. A charge
10 may be assessed to cover reproduction and handling costs for requested copies of the
11 ER.

12 **SECTION 206.** Trans 400.11 (7) (b) of the administrative code is created to read:

13 Trans 400.11 (7) (b) If the department determines to hold, or afford the
14 opportunity for, a public hearing on an ER action under s. Trans 400.12 (4) (b), the
15 department shall make the ER publicly available and provide notice of public
16 availability under sub. (5) as if the ER were an EA.

17 **SECTION 207.** Trans 400.11 (8) of the administrative code is created to read:

18 Trans 400.11 (8) NOTICE OF AVAILABILITY. (a) When an environmental document
19 listed under par. (c) is made available to the public by the department, a notice of
20 availability shall be published in the appropriate official local newspaper or in a
21 newspaper of general circulation within the area affected by the proposed action. If
22 the proposed action is of statewide interest, the notice shall also be published in the
23 official state newspaper. The notice shall:

- 24 1. Briefly describe the proposed action.
- 25 2. Announce the completion and availability of the environmental document.

1 3. List the locations where the environmental document may be inspected.

2 4. Except in the case of a ROD or a combined FEIS and ROD document, invite
3 the public to furnish written comments on the proposed action; indicate where
4 comments are to be sent; and indicate the date that such comments must be
5 submitted to the department as determined under par. (b).

6 (b) The comment period for specific environmental documents shall be as
7 follows:

8 1. For a DEIS, the comment period may not be less, nor without cause longer
9 than, 45 days after the date of the publication of the notice of availability.

10 2. If the department determines a separate FEIS and ROD are necessary under
11 s. Trans 400.13 (1) (am), the comment period for the FEIS may not be less, nor
12 without cause longer than, 30 days after the date of publication of the notice of
13 availability.

14 3. For an EA, and for an ER if the department determines it will hold or afford
15 the opportunity for a public hearing under s. Trans 400.12 (4) (b), the comment period
16 may not be less, nor without cause longer than, 30 days after the date of publication
17 of the notice of availability.

18 (c) A notice of availability shall be published for the following environmental
19 documents:

20 1. SEE.

21 2. DEIS.

22 3. FEIS and ROD, or a combined FEIS and ROD.

23 4. EA.

24 5. ER, if the department determines that it will hold or afford the opportunity
25 for a public hearing under s. Trans 400.12 (4) (b).

1 (d) The notice of availability of the environmental document may be combined
2 with other public notices required under this chapter.

3 **SECTION 208.** Trans 400.12 (3) (a) of the administrative code is amended to
4 read:

5 Trans 400.12 (3) (a) Whenever a proposed action requires an EIS, the
6 department shall hold a public hearing on the DEIS no sooner than 15 days after its
7 notice of availability is published. The hearing shall be held prior to the
8 ~~determination of the recommended~~ selection of the final course of action for the
9 proposal, but the department may present a preferred alternative.

10 **SECTION 209.** Trans 400.12 (4) (title) of the administrative code is amended to
11 read:

12 Trans 400.12 (4) (title) PUBLIC HEARING, OR OPPORTUNITY FOR PUBLIC HEARING, ON
13 EA OR ER.

14 **SECTION 210.** Trans 400.12 (4) of the administrative code is renumbered Trans
15 400.12 (4) (a) and amended to read:

16 Trans 400.12 (4) (a) Unless EA procedures indicate the action is an EIS action,
17 the department shall hold, or afford the opportunity for, a public hearing on an EA
18 action prior to the issuance of a FONSI. A public hearing on an EA may be held by
19 the department at the department's discretion and shall be held if a request for such
20 a hearing is received by the department within the time specified in the notice of
21 opportunity ~~for to request~~ a public hearing ~~provided for~~ under s. Trans 400.11 (5) (c).

22 (c) Whenever the department determines to hold a public hearing or approves
23 a timely request for a public hearing under this subsection, the department shall
24 proceed in the same manner as provided for a public hearing on a DEIS under sub.
25 (3), except that the public hearing shall be held no sooner than 15 days after

SECTION 210

1 publication of the public hearing notice and the identity of the EA or ER shall be
2 referenced in the public hearing notice.

3 **SECTION 211.** Trans 400.12 (4) (b) of the administrative code is created to read:

4 Trans 400.12 (4) (b) The department at its sole discretion may determine to
5 hold a public hearing or afford the opportunity for a public hearing for ER actions.
6 If the department determines to afford the opportunity for a public hearing for an ER
7 action, the department shall follow EA procedures under par. (a).

8 **SECTION 212.** Trans 400.13 (1) (a) of the administrative code is repealed.

9 **SECTION 213.** Trans 400.13 (1) (am) of the administrative code is created to
10 read:

11 Trans 400.13 (1) (am) To the maximum extent practicable, the department
12 shall expeditiously develop a single document that consists of an FEIS and ROD,
13 unless any of the following applies:

14 1. The FEIS makes substantial changes to the proposed action that are
15 relevant to environmental or safety concerns.

16 2. There are significant new circumstances or information relevant to
17 environmental concerns and that bear on the proposed action or the impacts of the
18 proposed action.

19 **SECTION 214.** Trans 400.13 (1) (b) (intro.) of the administrative code is amended
20 to read:

21 Trans 400.13 (1) (b) (intro.) The record of decision, whether issued in
22 combination with an FEIS or separately, shall contain the following information:

23 **SECTION 215.** Trans 400.13 (2) (a) of the administrative code is amended to
24 read:

1 Trans 400.13 (2) (a) The decision to revise an EA to constitute a FONSI shall
2 not be made until after the end of the 30-day comment period specified in the notice
3 of availability of the EA provided for under s. Trans 400.11 (5)-(b) (8).

4 **SECTION 216.** Trans 400.13 (3) of the administrative code is created to read:

5 Trans 400.13 (3) ER. (a) Unless the department determines to hold, or afford
6 the opportunity for, a public hearing under s. Trans 400.12 (4) (b), an approved ER
7 document constitutes the department's final decision on a proposed action.

8 (b) When the department holds, or affords the opportunity for, a public hearing
9 on an ER, the decision to revise an ER to constitute a final decision on a proposed
10 action shall not be made until after the end of the comment period specified in the
11 notice of availability of the ER provided for under s. Trans 400.11 (8).

12 (c) If potentially significant impacts have not been identified during the ER
13 availability period, the department shall revise the ER as appropriate and shall
14 attach a summary of the public hearing, if a hearing was held, and a summary of any
15 comments received and responses thereto. These items, along with a statement of
16 no significant impact, shall constitute the final action determination document and
17 the record of decision.

18 (d) If, at any point in the ER process, the department determines that the
19 proposed action may have a significant impact on the quality of the human
20 environment, an EIS shall be prepared before proceeding with the proposed action.

21 **SECTION 217.** Trans 400.14 (1) (a) of the administrative code is amended to
22 read:

23 Trans 400.14 (1) (a) A reevaluation of a DEIS shall be prepared if 3 years have
24 elapsed before the date of publication of the notice of availability of the FEIS
25 provided for under s. Trans 400.11 (4). A reevaluation of a DEIS shall also be

SECTION 217

1 prepared any time prior to the date of publication of the notice of availability of the
2 FEIS if, in the judgment of the department, there have been significant changes in
3 the proposed action, the affected human environment, the anticipated
4 environmental impacts or the proposed mitigation measures. If in either case the
5 reevaluation indicates or confirms any such significant changes, a new
6 environmental document or supplemental DEIS shall be prepared prior to
7 proceeding with the proposed action. The supplemental DEIS shall be prepared and
8 processed in the same manner as a DEIS under this chapter. Preparation of the
9 supplemental DEIS shall not require withdrawal of previous approvals for those
10 aspects of the proposed action not directly affected by the changed condition or new
11 information.

12 **SECTION 218.** Trans 400.14 (2) (a) of the administrative code is amended to
13 read:

14 Trans 400.14 (2) (a) A reevaluation of a FEIS shall be prepared any time there
15 have been, in the judgment of the department, significant changes in the proposed
16 action, the affected human environment, the anticipated environmental impacts or
17 the proposed mitigation measures. If the reevaluation confirms any such significant
18 changes, a new environmental document or supplemental FEIS shall be prepared
19 prior to proceeding with the proposed action. The supplemental FEIS shall be
20 prepared and processed in the same manner as a FEIS under this chapter.
21 Preparation of the supplemental FEIS shall not require withdrawal of previous
22 approvals for those aspects of the proposed action not directly affected by the
23 changed condition or new information.

24 **SECTION 219.** Trans 400.14 (3) of the administrative code is created to read:

1 Trans 400.14 **(3)** REVISION OF FINAL ACTION DOCUMENT. (a) The department may
2 revise a final action document, including a ROD, FONSI, or ER, in order to do any
3 of the following:

4 1. Select a different alternative, if the new selected alternative is fully
5 evaluated in the FEIS, EA, or ER to the same degree as the originally selected
6 alternative.

7 2. Make substantial changes to mitigation measures or findings discussed in
8 the final agency action.

9 (b) If the department revises a final action document under par. (a), those
10 agencies that reviewed the FEIS, EA, or ER shall be given an opportunity to review
11 and comment on the revised final action document. To the extent practicable, the
12 approved revised final action document shall be provided to all persons,
13 organizations, and agencies that received the FEIS, EA, or ER.

14 **SECTION 220.** Trans 401.04 (28) of the administrative code is amended to read:

15 Trans 401.04 **(28)** “Section 404 permit” means a permit issued by the U.S. ~~army~~
16 ~~corps of engineers~~ Army Corps of Engineers under 33 USC 1344 of the clean water
17 act, as amended.

18 **SECTION 221.** Trans 510.08 (2) (intro.), (a) and (b) of the administrative code
19 are consolidated, renumbered Trans 510.08 (2) and amended to read:

20 Trans 510.08 **(2)** A jobs guarantee with the local governing body shall be part
21 of the project agreement when deemed necessary by the department in order to
22 protect the public interest. The local governing body shall, in turn, be encouraged
23 to develop a similar agreement with the economic development project. The jobs
24 guarantee shall obligate the local governing body to reimburse the department for
25 up to the full amount of the grant if either of the following occurs: (a) ~~The guaranteed~~

SECTION 221

1 ~~number of direct jobs associated with the economic development project do not result~~
2 ~~within 3 years of the date the project agreement is executed. (b) The the guaranteed~~
3 ~~number of direct jobs associated with the economic development project do not exist~~
4 ~~7 5 years after the date the project agreement is executed. The base number of jobs~~
5 ~~to be used for comparison shall be established on the date funds are awarded.~~
6 ~~Verification of the number of direct jobs associated with the economic development~~
7 ~~project shall be made utilizing information available from the department of~~
8 ~~workforce development and other sources.~~

9 **SECTION 222. Effective dates.** This act takes effect on the day after
10 publication, except as follows:

11 (1) The treatment of section Trans 146.04 (4) of the administrative code takes
12 effect on January 1, 2016.

13 (END)

**2015–2016 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB–3135/P4ins
ZDW/EVM/ARG:wlj&ejs

1 INS 30–3

2

3 **SECTION 1.** Trans 210.08 of the administrative code is repealed.

4 **SECTION 2.** Trans 233.08 (2) (c) 5. of the administrative code is amended to read:

5 Trans 233.08 **(2)** (c) 5. State trunk highways and connecting highways with
6 current and forecasted congestion projected to be worse than level of service “C,” as
7 determined under s. Trans 210.05 (1), within the following “C.” Department
8 engineers shall use appropriate methodologies to determine the projected level of
9 service that is predicted to exist 20 years from the year of the analysis.

10 **SECTION 3.** Trans 233.11 (3) (b) 4. of the administrative code is amended to read:

11 Trans 233.11 **(3)** (b) 4. Whether the current and forecasted congestion of the
12 abutting highway is projected to be worse than level of service “C,” as determined
13 under s. Trans 210.05 (1), within the following “C.” Department engineers shall use
14 appropriate methodologies to determine the projected level of service that is
15 predicted to exist 20 years from the year of the analysis.

Mueller, Eric

From: Portz, Elisabeth
Sent: Monday, October 19, 2015 4:14 PM
To: Mueller, Eric; Gary, Aaron; Wyatt, Zachary
Subject: FW: Red Tape Review p/3
Attachments: FW: Red Tape Review p/3

Hey everyone,

Please see below for your answers to the notes included in the p/3. There are answers below AND answers included in the email attached. Please let me know if you have any questions! If all goes well with making these changes, we'll move forward with the /1 and send out for co-sponsorship tomorrow morning or early afternoon.

Thank you so much again!

Liz

From: Yahn, Nate - DOT [mailto:Nate.Yahn@dot.wi.gov]
Sent: Monday, October 19, 2015 4:01 PM
To: Portz, Elisabeth <Elisabeth.Portz@legis.wisconsin.gov>
Subject: RE: Red Tape Review p/3

Please see below for responses (in red) to the Drafter's Notes referenced below.

Nate Yahn

Legislative Advisor
Office of the Secretary
Wisconsin Department of Transportation
Phone: (608) 266-1114

From: Portz, Elisabeth [mailto:Elisabeth.Portz@legis.wisconsin.gov]
Sent: Monday, October 19, 2015 12:23 PM
To: Yahn, Nate – DOT <Nate.Yahn@dot.wi.gov>
Subject: Red Tape Review p/3

Hey Nate,

With a quick run through of the p/3, there are a few notes LRB needs your feedback on before I can turn this into a /1.

Please see the following:

Page 26- Two notes

- First Note: No.
- Second Note: No, the material in par. (c) is intended to not be optional.
 - *Proposed change:* Page 26, line 7: delete "may" and substitute "shall".

Page 28- One note

- *See email attachment.*

Page 30- Two notes

- *See email attachment.*

Page 34- One note

- Yes, this treatment reflects the intent of the department. No further changes are recommended at this time.

With our timeline, it'd be so awesome if I can get answers to these questions TODAY. At the very latest, I'd like to send this out for co-sponsorship tomorrow. Does that timeline work?

Thanks!

Liz

Elisabeth Portz
Clerk, Assembly Committee on Transportation
Office of Wisconsin State Representative Keith Ripp
42nd Assembly District
(608) 266-3404

Mueller, Eric

From: Nestler, Joseph - DOT
Sent: Monday, October 19, 2015 3:15 PM
To: Yahn, Nate - DOT
Cc: Sommers, Kristen - DOT; Krahn, Dawn - DOT; Shell, Justin R - DOT; Augustin, Andrew S - DOT; Nestler, Joseph - DOT
Subject: FW: Red Tape Review p/3
Attachments: 15-3135_P3.pdf; Red Tape Review (DOT) - DTIM Trans 210 (2).docx
Importance: High

Nate,

Here are the responses to the questions related to Trans 210. Please let us know if you have questions.

Please note that we need to update the document to say **“Repeal Trans 210.08”**. **Document attached.**

Joe

Comments on Page 28

2015 - 2016 Legislature	- 28 -	LRB-3135/P3 ZDW/EVM/ARG:wlj&cjs SECTION 117
***NOTE: How do you want to handle the cross-references in ss. Trans 233.08 (2) (c) 5. and 233.11 (3) (b) 4.?		

1. Reword Trans 233.08(2)(c)5

Existing Text:

5. State trunk highways and connecting highways with current and forecasted congestion projected to be worse than level of service "C," as determined under s. Trans 210.05 (1), within the following 20 years.

Proposed Revision:

5. State trunk highways and connecting highways with current and forecasted congestion projected to be worse than level of service "C". Department engineers shall use the appropriate methodologies to determine the projected level of service that is predicted to exist 20 years from the year of the analysis.

2. Reword Trans 233.11(3)(b)4

Existing Text:

4. Whether the current and forecasted congestion of the abutting highway is projected to be worse than level of service "C," as determined under s. Trans 210.05 (1), within the following 20 years.

Proposed Revision:

4. Whether the current and forecasted congestion of the abutting highway is projected to be worse than level of service "C". Department engineers shall use the appropriate methodologies to determine the projected level of service that is predicted to exist 20 years from the year of the analysis.

3. Environmental Document Comments:

Trans 210.08 should have been marked – Repeal Trans 210.08 – Need to Insert “Repeal Trans 210.08” (see attached Word document)

Trans 210.08 is being eliminated. Propose leaving as shown below:

2015 – 2016 Legislature	– 30 –	LRB-3135/P3 ZDW/EVM/ARG:wj&cjs SECTION 119
1	on the results of the detailed environmental document process (National	
2	Environmental Policy Act and/or Wisconsin Environmental Policy Act).	
****NOTE: This section appears to contain some extraneous matter. Also, the subsections in this section do not exactly match the category titles used in s. Trans 210.08. Please let me know if you want any changes.		

From: Augustin, Andrew S - DOT
Sent: Monday, October 19, 2015 12:47 PM
To: Nestler, Joseph - DOT
Subject: FW: Red Tape Review p/3
Importance: High

Joe,

Nate Yahn is requesting a response by 4 pm today on two notes from the legislature regarding Trans 210. Please take a look at the top of page 28 and 30 in the attached PDF. If there is someone in the business area that you think could also provide a response since Kasey is gone, let me know. Thanks.

-Andrew

From: Yahn, Nate - DOT
Sent: Monday, October 19, 2015 12:35 PM
To: Knowles, Mae - DOT; Augustin, Andrew S - DOT
Subject: FW: Red Tape Review p/3
Importance: High

Mae/Andrew,

See below. NEED responses to the respective Drafter's Notes by NLT 4pm this afternoon.

The notes on Pages 26 and 34 pertain to DTSD, and the notes on Pages 28 and 30 pertain to DTIM.

Thank you.

Nate

-
Nate Yahn
Legislative Advisor

Office of the Secretary
Wisconsin Department of Transportation
Phone: (608) 266-1114

From: Portz, Elisabeth [<mailto:Elisabeth.Portz@legis.wisconsin.gov>]

Sent: Monday, October 19, 2015 12:23 PM

To: Yahn, Nate - DOT

Subject: Red Tape Review p/3

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Please see the following:

Page 26- Two notes

Page 28- One note

Page 30- Two notes

Page 34- One note

With our timeline, it'd be so awesome if I can get answers to these questions TODAY. At the very latest, I'd like to send this out for co-sponsorship tomorrow. Does that timeline work?

Thanks!

Liz

Elisabeth Portz
Clerk, Assembly Committee on Transportation
Office of Wisconsin State Representative Keith Ripp
42nd Assembly District
(608) 266-3404